

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES of AMERICA,

4 -against-

19 CR 386
Plea

5 MAYYA TATSENE,

6 Defendant.
7 -----x

8
9 United States Courthouse
10 White Plains, New York

11 May 29, 2019

12 THE HONORABLE LISA MARGARET SMITH,
13 District Court Magistrate Judge

14 GEOFFREY S. BERMAN
15 United States Attorney for
16 the Southern District of New York
17 JEFFREY COFFMAN
Assistant United States Attorney

18 LAW OFFICES OF JEFFREY GOLDSTEIN
19 Attorney for Defendant
20 BY: JEFFREY GOLDSTEIN
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1 THE CLERK: In the matter of the United States of
2 America versus Mayya Tatsene.

3 Counsel, please note your appearance for the record.

4 MR. COFFMAN: Assistant States Attorney Jeffrey
5 Coffman for the government.

6 Good afternoon, your Honor.

7 THE COURT: Good afternoon, Mr. Coffman.

8 MR. COFFMAN: I'm joined here at counsel table by FBI
9 Special Agent Amy Solek.

10 THE COURT: Good afternoon.

11 SPECIAL AGENT SOLEK: Thank you.

12 MR. GOLDSTEIN: Good afternoon, Judge.

13 David Goldstein, 777 Chestnut Ridge Road, Chestnut
14 Ridge, New York, for Ms. Tatsene, who's seated to my right.

15 THE COURT: Good afternoon, Mr. Goldstein.

16 Do I understand that this is your client's first
17 appearance?

18 MR. GOLDSTEIN: It is, your Honor.

19 THE COURT: And that she is consenting to the filing
20 of an information?

21 MR. GOLDSTEIN: Correct.

22 THE COURT: If appropriate, she's also planning to
23 enter a plea of guilty; is that right?

24 MR. GOLDSTEIN: Correct.

25 THE COURT: Pursuant to an agreement, a copy of which

1 has been provided to me.

2 MR. GOLDSTEIN: Yes, your Honor.

3 THE COURT: All right. Ms. Tatsene, stand up,
4 please.

5 I want to advise you that this is not a trial. It is
6 my understanding that you have decided to waive indictment and
7 consent to the filing of a felony information and that you have
8 also decided to enter a plea of guilty in this case. This
9 proceeding is a preliminary proceeding at which I am going to
10 advise you of certain of your rights and a district judge will
11 be selected to hear your case, after which you may have the
12 option of entering your plea before that district judge or you
13 may have the option of entering your plea before me.

14 This proceeding is also for the purpose of ensuring
15 that you are aware of your rights in connection with the waiver
16 of indictment and the proposed plea of guilty, and that any
17 waiver of those rights is knowing and voluntary prior to filing
18 the felony information and prior to entering your plea of
19 guilty, if you still decide to do that.

20 During this proceeding I am also going to ask you
21 some questions to make sure that you are competent to waive
22 indictment and to plead guilty. By that I mean that I need to
23 determine whether you are able to understand what is going on
24 here today and that you are not under the influence of any
25 physical or mental or emotional condition, or affected by any

1 controlled substance which may impact upon your ability to
2 understand what is going on.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Ms. Tatsene, if at any time you do not
6 hear or understand what I say to you, I want you to interrupt
7 me so that I can repeat and explain what I've said and so that
8 you can have an opportunity to consult with Mr. Goldstein to
9 make sure that you have heard and understood everything I've
10 said and everything I've asked you.

11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And will you do that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: I want to advise you that you have an
16 absolute right to remain silent at this and at every stage of
17 the proceedings. Any statement that you do make may be used
18 against you. You have this right to remain silent even if you
19 have already made statements to law enforcement officers and
20 you are not required to answer any questions that law
21 enforcement officers ask you from this moment on.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: You have an absolute right to be
25 represented by counsel at this and at every stage of the

1 proceedings against you, including representation during any
2 questioning by the authorities, during any lineup, and at all
3 court proceedings, including this one, and you have the right
4 to consult with your attorney prior to answering any questions.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: For that reason, you should consult with
8 your attorney before answering any further questions, including
9 questions that I'm going to ask you during this proceeding.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Mr. Goldstein, are you retained or
13 appointed in the matter?

14 MR. GOLDSTEIN: Retained, your Honor.

15 THE COURT: Ms. Tatsene, if you were to become unable
16 to afford your attorney's services, you would be entitled to
17 apply to the Court for a new attorney to represent you, and if
18 the Court was satisfied that you could not afford to hire a
19 lawyer and that there was an appropriate reason to relieve your
20 current lawyer, a new lawyer would be appointed to represent
21 you with no cost to you.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Ms. Embola, would you place the defendant
25 under oath or after affirmation, please.

1 (Mayya Tatsene sworn)

2 THE COURT: It is important for you to understand
3 that if you knowingly make a false statement during these
4 proceedings, you could be subject to prosecution for the crime
5 of perjury or for making a false statement to the Court, and
6 you could face a punishment of up to five years in prison and a
7 \$250,000 fine for committing such a crime. Such punishment
8 would be separate and apart from any sentence you may be facing
9 on the crimes charged in the felony information. In addition,
10 any statement that you make during this proceeding may be used
11 against you for purposes of such a prosecution.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: What's your full name?

15 THE DEFENDANT: Mayya Tatsene.

16 THE COURT: How old are you?

17 THE DEFENDANT: Sixty-four.

18 THE COURT: Do you read, write, speak and understand
19 the English language?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: I understand that English is not your
22 native language.

23 THE DEFENDANT: No.

24 THE COURT: Is that correct?

25 THE DEFENDANT: Yes.

1 THE COURT: What's your native language?

2 THE DEFENDANT: Russian.

3 THE COURT: If you have had any difficulty
4 understanding me, we can make arrangements for you to have an
5 interpreter, but that would have to happen on some other day.

6 Do you wish to have an interpreter to assist you in
7 understanding everything that's happening here today?

8 THE DEFENDANT: No, thank you.

9 THE COURT: Have you been able to understand
10 everything I've said to you so far?

11 THE DEFENDANT: Yes, I did.

12 THE COURT: If there's anything you do not understand
13 that I say to you, I want you to tell me so that we can make
14 sure you understand everything that's being said and especially
15 everything that I ask you.

16 Will you do that?

17 THE DEFENDANT: Yes.

18 THE COURT: How far did you go in school,
19 Ms. Tatsene?

20 THE DEFENDANT: I'm a medical doctor.

21 THE COURT: Have you been treated within the last
22 three months for any mental illness or for addiction to drugs
23 or to alcohol?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Have you, either today or on any other --

1 at any other time in your life, have you taken or used any
2 drugs, marijuana, alcohol, medication, or any other substance
3 which currently affects your ability to think or to understand
4 these proceedings that are going on here today?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Mr. Goldstein, have you discussed this
7 matter fully with Ms. Tatsene?

8 MR. GOLDSTEIN: I have.

9 THE COURT: Are you satisfied that she is fully
10 capable of understanding and participating in this proceeding?

11 MR. GOLDSTEIN: Yes.

12 THE COURT: Mr. Coffman, do you have any doubt that
13 the defendant is competent to participate in this proceeding?

14 MR. COFFMAN: No doubt, your Honor.

15 THE COURT: I'm satisfied on the basis of these
16 representations and my observations of the defendant that this
17 defendant, Mayya Tatsene, is fully competent to understand and
18 participate in this proceeding.

19 You are charged in this felony information with one
20 count of conspiracy to commit wire fraud, one count of wire
21 fraud and a forfeiture allegation in connection with both of
22 those counts.

23 Ms. Embola, would you arraign the defendant on the
24 waiver of indictment, please.

25 THE CLERK: Ms. Tatsene, have you signed this waiver

1 of indictment?

2 THE DEFENDANT: Yes, I have.

3 THE CLERK: Have you signed it voluntarily?

4 THE DEFENDANT: Yes.

5 THE CLERK: Before signing this waiver, did you
6 discuss it with your attorney?

7 THE DEFENDANT: Yes, I have.

8 THE COURT: Did your attorney explain this waiver to
9 you?

10 THE DEFENDANT: Yes.

11 THE CLERK: Do you understand that you are under no
12 obligation to waive indictment?

13 THE DEFENDANT: Yes.

14 THE CLERK: Do you understand that if you don't waive
15 indictment and the government wants to prosecute you, they will
16 have to present your case to a Grand Jury which may or may not
17 indict you?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand what a Grand Jury is?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you seen a copy of the felony
22 information?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: Do you waive its public reading?

25 THE DEFENDANT: Yes.

1 THE COURT: The written waiver of indictment is
2 accepted. I'm signing it. And it will remain in the Court's
3 file as Court Exhibit 1 for today's date.

4 Mr. Goldstein, for purposes of this preliminary
5 proceeding, how does your client plead?

6 MR. GOLDSTEIN: Not guilty.

7 THE COURT: A not guilty plea is entered.

8 Before a District Judge is selected, what's the
9 Government's position with regard to bail?

10 MR. COFFMAN: Your Honor, the government would
11 request that the Court release the defendant on certain
12 conditions.

13 THE COURT: Those being?

14 MR. COFFMAN: Specifically, your Honor, the
15 government would request the Court restrict the defendant's
16 travel to the states of New York and New Jersey; that the
17 defendant surrender any remaining passports. I understand she
18 surrendered her US passport to Pretrial Services today, has one
19 other passport, Lithuanian passport. The government would ask
20 that she be given till the end of next week to give that to
21 Pretrial Services. The government would also request that she
22 be ordered not to apply for any new passports, and that she be
23 required to sign a \$100,000 bond to be cosigned by one
24 financially responsible party.

25 I think the defendant would have one of her sons sign

1 the bond. We would ask that she be given until the end of next
2 week to have that person sign the bond as well.

3 And then standard conditions of probation, your
4 Honor -- pretrial release, rather, your Honor.

5 THE COURT: All right. Mr. Goldstein?

6 MR. GOLDSTEIN: Yes, your Honor. We brought it to
7 the attention this afternoon that there was a second passport
8 and that's why it's not in the report that you see from
9 Pretrial, but we will surrender that by the end of next week,
10 before Friday, 4:30 of next week, and we will also have her son
11 come prior to that moment to sign a personal bond, along with
12 my client.

13 We accept those conditions, your Honor, if your Honor
14 would set those.

15 THE COURT: All right. I will release the defendant
16 on a \$100,000 personal recognizance bond to be cosigned by one
17 financially responsible person no later than June 7th. The
18 defendant may be released on her own signature today.

19 She is to surrender any additional passports no later
20 than June 7th to Pretrial Services and is prohibited from
21 obtaining any new or additional travel or replacement travel
22 documents. Her travel is restricted to the districts of
23 New York and New Jersey. And she will be subject to standard
24 Pretrial Services supervision.

25 MR. GOLDSTEIN: It has to be with supervision?

1 THE COURT: You said standard conditions --

2 MR. COFFMAN: Your Honor, I'm specifically thinking
3 of not supervision by Pretrial but the conditions that she not
4 commit another felony. That she report to Pretrial if she's --

5 MR. GOLDSTEIN: (indiscernible).

6 MR. COFFMAN: Right.

7 THE COURT: All right. I will remove the condition
8 for supervision, except that if the defendant is questioned by
9 the authorities or arrested for any other offense, she is to
10 report that to Pretrial Services. If there is any change of
11 residence, she's also to report that to Pretrial Services.

12 You should understand, Ms. Tatsene, this is a setting
13 of bail. This means that upon your release you must refrain
14 from committing any violations of law whatsoever, including
15 federal, state, and local crimes. If you commit a felony while
16 you are on release for this charge, you may be subject to an
17 additional prison term of up to ten years. That's in addition
18 to what you're facing on this charge and in addition to what
19 you may be facing on the new charge.

20 If you commit a misdemeanor while you are on release,
21 the additional prison term would be up to one year. You must
22 inform the Pretrial Services officer if you are accused of
23 committing a crime, whether it is by arrest, interview or in
24 any other fashion.

25 During the period of your release, your travel is

1 restricted to the districts of New York and New Jersey, and you
2 must obtain the Court's permission before you may travel
3 outside those areas for any reason.

4 So for example, if you had a doctor's appointment in
5 Greenwich, Connecticut, you would not be permitted to go to
6 that appointment until you communicated with Mr. Goldstein. He
7 will communicate with me and you would have to wait until I
8 granted permission for you to leave the state of New York or
9 the state of New Jersey.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: If you violate any of the conditions of
13 your release, your bail may be immediately revoked and you may
14 be detained pending trial. In addition, you may be prosecuted
15 for contempt of court. If you fail to appear in court when you
16 are required to do so, you may be committing the crime of bail
17 jumping, which would subject you to an additional punishment
18 separate and apart from the charges you are facing here. The
19 punishment for bail jumping in this case is up to ten years and
20 a \$250,000 fine.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: All right. This is a wheel B case.

24 Ms. Embola, may I have a card, please.

25 The matter is assigned to Judge Briccetti. Although

1 he does prefer to do his own guilty pleas of late, he's been
2 referring guilty pleas to the designated magistrate judge.

3 Mr. Goldstein, would you like us to check with Judge
4 Briccetti's chambers to see if he wants us to proceed with the
5 plea?

6 MR. GOLDSTEIN: Judge, I think he'll take the bad
7 news that you took the plea in stride.

8 THE COURT: Well, I need to check with him first.

9 MR. GOLDSTEIN: I understand. But we have no
10 objection to your Honor taking the plea.

11 THE COURT: All right. Go ahead. Why don't you make
12 a call.

13 (Pause)

14 THE COURT: Referred to us?

15 THE CLERK: Referred to us.

16 THE COURT: Okay. All right. Judge Briccetti's
17 chambers has informed my deputy that we may proceed with the
18 guilty plea.

19 I have before me a plea agreement dated April 16,
20 2019. I understand, Mr. Coffman, there's been one minor change
21 on page 2 in the second paragraph.

22 MR. COFFMAN: That's correct, your Honor. And I also
23 neglected to ask for the case number to write on the top.

24 THE COURT: Case number is 19CR386.

25 MR. COFFMAN: Thank you.

1 THE COURT: And you've notified Mr. Goldstein of the
2 change?

3 MR. COFFMAN: I apologize, your Honor. I missed that
4 last question.

5 THE COURT: You've notified Mr. Goldstein of the
6 change on the second page?

7 MR. COFFMAN: Yes, your Honor.

8 THE COURT: All right. Mr. Goldstein, do I
9 understand correctly that it is your client's wish to proceed
10 before me?

11 MR. GOLDSTEIN: Correct, your Honor.

12 THE COURT: Ms. Tatsene, this proceeding is referred
13 to as a plea allocution. I want you to understand that you
14 have the absolute right to have this plea allocution conducted
15 before a United States District Judge. It is the District
16 Judge, in this case Judge Briccetti, who will impose sentence
17 in your case. If you consent and if you agree, then I will
18 conduct the plea allocution and I will then make a report to
19 Judge Briccetti in which I will recommend whether or not he
20 should accept your plea of guilty. I will make that
21 recommendation based on the information that is brought out
22 during today's proceedings. It is important for you to
23 understand that the Court will not accept your plea unless the
24 Court is satisfied that you fully understand all of your rights
25 and that you are, in fact, guilty.

1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that you have an
4 absolute right to have this plea allocution conducted before a
5 United States District Judge?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you agree and is it your wish that I
8 should conduct the plea allocution?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Ms. Embola, would you have the defendant
11 identify her signature on the consent form, please.

12 THE CLERK: Ms. Tatsene, I show you this consent
13 form. Is this your signature affixed to the document?

14 THE DEFENDANT: This is.

15 THE CLERK: Have you read this document and discussed
16 it with your attorney?

17 THE DEFENDANT: Yes, I have.

18 THE COURT: Did anyone threaten you or coerce you or
19 promise you anything in order to get you to sign this consent
20 form?

21 THE DEFENDANT: No, your Honor.

22 THE COURT: Did you sign the form freely and
23 voluntarily?

24 THE DEFENDANT: Yes, I did.

25 THE COURT: Mr. Goldstein, do you know of any reason

1 why the waiver and consent to proceed with a felony plea
2 allocution before a United States Magistrate Judge should not
3 be accepted?

4 MR. GOLDSTEIN: No, your Honor.

5 THE COURT: I find that Mayya Tatsene is fully
6 competent and capable of waiving her right to appear before a
7 United States District Judge in order to enter her plea of
8 guilty. I therefore accept the consent form, which I have
9 signed and which will remain a part of the Court's record as
10 Court Exhibit 2.

11 Do you understand that your right to be represented
12 by an attorney continues through every stage of the
13 proceedings, including trial and appeal, and that you have this
14 right whether or not you choose to plead guilty to these
15 offenses?

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Have you had sufficient opportunity to
19 consult with your attorney about your case and especially about
20 your decision to plead guilty?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Are you satisfied with the services which
23 counsel has provided to you?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Have you told him everything you know

1 about this case?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: The original plea agreement is to be
4 marked as Government Exhibit 1 and it will -- the original will
5 remain in the custody of government's counsel after this
6 proceeding.

7 Ms. Embola, would you have the defendant identify her
8 signature on the last page of the plea agreement, please.

9 THE CLERK: Ms. Tatsene, I'm showing you this plea
10 agreement. Is this your signature affixed to the document?

11 THE DEFENDANT: Yes, it is.

12 THE CLERK: Have you read this document and discussed
13 it with your attorney?

14 THE DEFENDANT: Yes, I have.

15 THE COURT: Mr. Goldstein, did you review each and
16 every part of this plea agreement with your client?

17 MR. GOLDSTEIN: I did.

18 THE COURT: Ms. Tatsene, are you satisfied that you
19 understand the entire plea agreement which Mr. Goldstein has
20 reviewed with you?

21 THE DEFENDANT: Yes, I am.

22 THE COURT: Do you have any questions, either for
23 your lawyer or for me about what this plea agreement says?

24 THE DEFENDANT: No.

25 THE COURT: Does the plea agreement contain the

1 complete understanding between you and the government in
2 connection with this case?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that anything which is
5 not set forth in the written plea agreement or which is not
6 told to me at this time on the record will not be binding on
7 the outcome of your case?

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Coffman, is there anything beyond the
11 written plea agreement that the Court should be aware of?

12 MR. COFFMAN: No, your Honor.

13 THE COURT: Mr. Goldstein, is there any other
14 agreement or understanding that the Court should know about?

15 MR. GOLDSTEIN: There is not.

16 THE COURT: Ms. Tatsene, did you sign the plea
17 agreement freely and voluntarily?

18 THE DEFENDANT: Yes, I have.

19 THE COURT: Did anyone force you or coerce you or
20 threaten you or promise you anything other than what is set
21 forth in the written plea agreement in order to get you to sign
22 that plea agreement?

23 THE DEFENDANT: No.

24 THE COURT: Ms. Tatsene, if you were convicted of the
25 charges set forth in this felony information, either after

1 trial or by plea of guilty, you would be subject on Count One
2 to a maximum term of imprisonment of 20 years, a maximum term
3 of supervised release of 3 years, a maximum fine of the
4 greatest of \$250,000 or twice the gross gain or twice the gross
5 loss resulting from the offense, and a mandatory \$100 special
6 assessment.

7 You would be subject to Count Two to a maximum term
8 of imprisonment of 20 years, a maximum term of supervised
9 release of 3 years, a maximum fine of the greatest of \$250,000,
10 or twice the gross gain or twice the gross loss resulting from
11 the offense, and a mandatory \$100 special assessment. The
12 total maximum sentence of incarceration on the two counts is 40
13 years in prison.

14 You are also -- sorry. If you're sentenced to a term
15 of imprisonment, even if you are sentenced to the maximum term
16 of imprisonment, and if you are also sentenced to a term of
17 supervised release, if you then violate the conditions of your
18 supervised release, you could be sentenced to an additional
19 term of imprisonment of up to two years on each of the counts
20 for a potential additional sentence of up to four years.

21 In addition, if you violate the conditions of your
22 supervised release, you would not receive credit for any time
23 already served in prison, or for time served on supervised
24 release. You are also subject to the possibility of an order
25 of forfeiture or restitution, and the Court is authorized to

1 order either forfeiture or restitution or both as a part of
2 your sentence.

3 In addition, you have agreed in your plea agreement
4 that you will make restitution and that you will also admit to
5 the forfeiture allegation with respect to Counts One and Two
6 which is set forth in the information.

7 Mr. Coffman, do we have a maximum amount of
8 forfeiture and/or restitution?

9 MR. COFFMAN: Your Honor, with respect to both
10 forfeiture and restitution, there's no statutory maximum. We
11 don't have a precise number. What I can say is that the total
12 revenue to AMA from the fraudulent activity during the relevant
13 time period was in excess of \$25 million, but there are factual
14 and legal issues that may result in a substantially lower
15 restitution and forfeiture.

16 THE COURT: I take it then that you would agree that
17 a hearing may be necessary to determine the appropriate
18 amounts?

19 MR. COFFMAN: That is possible, your Honor.

20 THE COURT: All right.

21 It is important for you to understand that if you
22 admit to the forfeiture allegation, which you have agreed to
23 do, that you will give up your right to have a hearing to
24 determine whether forfeiture is appropriate. You would still
25 be entitled to a hearing to determine the amount of such

1 forfeiture.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: For purposes of such a hearing, you are
5 entitled to the assistance of counsel and to have an attorney
6 appointed to represent you without fee if you cannot afford an
7 attorney.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that these are the
11 possible sentences that could be imposed following your plea of
12 guilty in this matter?

13 THE DEFENDANT: Yes.

14 THE COURT: I am required to advise you, although I
15 understand that you are a naturalized United States citizen,
16 I'm still required by law to tell you -- excuse me. If you
17 were not a United States citizen, a finding that you are guilty
18 of a felony offense may have a negative impact upon your
19 immigration status and upon any application you may have made
20 or which you may make in the future for permission to remain in
21 the United States or to become a United States citizen.

22 You also may be subject to an order of deportation as
23 a result of this guilty plea if you are not a United States
24 citizen, and under certain circumstances deportation may be
25 mandatory. Additionally, if you are deported, you may be

1 prohibited from reentering the United States permanently unless
2 you are able to get permission to re-enter from the Attorney
3 General of the United States or from the Secretary of Homeland
4 Security.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Do you also understand that you are
8 pleading guilty to a felony offense? I'm very sorry.

9 Do you also understand that you are pleading guilty
10 to a felony offense and that such an adjudication may deprive
11 you of certain valuable civil rights which may include the
12 right to vote, the right to hold public office, the right to
13 serve on a jury, the right to possess any type of firearm,
14 including rifles and shotguns, the right to be considered for
15 certain types of employment or to be bonded, or to serve in the
16 United States military, and the right to possess or obtain
17 certain government-issued licenses, including licenses that may
18 be required in certain professions and occupations?

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Okay. Counsel -- and I guess I'm
22 directing this to both of you -- has there been any discussion
23 of the impact of the plea on Ms. Tatsene's ability to practice
24 medicine?

25 MR. COFFMAN: Your Honor, there has not. But my

1 understanding is that she is not licensed to practice medicine
2 in the US.

3 MR. GOLDSTEIN: And is retired so...

4 THE COURT: All right.

5 Where an offense involves fraud or other
6 intentionally deceptive practices, the Court may also order you
7 to provide notice of your conviction to victims of the offense
8 at your own cost.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that these are the
12 possible legal consequences of entering a guilty plea in this
13 case?

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that the United States
17 Sentencing Commission has issued guidelines for judges to
18 follow in determining the appropriate sentence in a criminal
19 case?

20 Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you also understand that these
23 guidelines are not mandatory but they must be considered by the
24 Court, along with other factors which are listed at Title 18,
25 United States Code, Section 3553, and the judge must consider

1 all of these things when the judge determines the appropriate
2 sentence to impose, including whether to grant departures from
3 the guidelines, both upward departures and downward departures?

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Have you and Mr. Goldstein talked about
7 how the sentencing guidelines would be calculated in your case?

8 MR. GOLDSTEIN: Judge, we've discussed that but even
9 with the United States Attorney, we do not have the actual
10 numbers because that will inflate it to a higher degree. But
11 we've discussed all the other options concerning what goes into
12 the guidelines.

13 THE COURT: Well, I'm concerned.

14 Do you understand what Mr. Goldstein has discussed
15 with you with regard to how your sentence may be calculated in
16 this case?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Are you satisfied that you
19 have a sufficient understanding of how the guidelines would
20 apply in this matter?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you understand that the district judge
23 will consider the guidelines but that he will impose a sentence
24 in accordance with the statute, which in this case means that
25 the prison term will be not more than 20 years on each of the

1 two counts?

2 Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand that the Court will not
5 be able to determine the appropriate sentence in your case
6 until after a presentence report has been prepared, and until
7 you and your attorney, as well as the government, have had an
8 opportunity to challenge the facts that are reported in the
9 presentence report, as well as the calculation of the
10 sentencing guideline range, and any sentencing recommendation
11 in that report?

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Do you also understand that if there are
15 any objections to the presentence report, that those objections
16 will be ruled on by the Court, and if necessary, a hearing will
17 be held to determine what information is relevant to the
18 Court's determination of the sentence?

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that if you disagree
22 with the Court's sentencing decision, that will not give you a
23 basis for withdrawing your plea of guilty?

24 Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Do you understand that parole has been
2 abolished, and if you are sentenced to a prison term, you will
3 not be eligible for early release on parole?

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Even though you would not be eligible for
7 parole, you may, if you are sentenced to a term of
8 imprisonment, you may be eligible to earn credit for good
9 behavior, but even if you were to succeed in earning credit for
10 good behavior, you would be required to serve at least
11 85 percent of any prison term before you may be eligible for
12 release?

13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you understand that you do not have to
16 plead guilty and you have an absolute right to plead not guilty
17 and to have the matter go to trial by judge or by jury?

18 Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand that if you choose to
21 plead not guilty, you are entitled to have a speedy and public
22 trial of your case?

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you understand that at any trial of

1 this matter, you would be entitled to the presumption of
2 innocence and that the presumption would remain with you until
3 the government proves each and every element of any one or more
4 of the crimes charged against you beyond a reasonable doubt to
5 the satisfaction of the judge, if it is a judge trial, or to
6 the unanimous satisfaction of the jury, if it is a jury trial?

7 Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: At such a trial, you would have the
10 right, with the assistance of your attorney, to confront and
11 cross examine the witnesses against you. You would have the
12 right to call witnesses to testify for you and to have
13 subpoenas issued to compel witnesses to give testimony and to
14 produce evidence.

15 You would also have the right to testify at your
16 trial, but you could not be forced to testify. If you decided
17 not to testify, your decision to remain silent could not be
18 held against you in any way. At your trial you would also have
19 the right I have spoken of, to the assistance of an attorney,
20 and to have an attorney appointed to represent you without fee
21 if you could not afford counsel.

22 Do you understand that if you plead guilty to the
23 charges in this felony information, that you would give up your
24 right to a trial, and except for the right to counsel, which
25 you retain, you would also give up all the other rights which I

1 have explained to you here?

2 Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Ms. Tatsene, have you clearly heard and
5 understood everything I've said to you?

6 THE DEFENDANT: Yes, I did.

7 THE COURT: Have you understood each of the rights
8 that I have asked you about?

9 THE DEFENDANT: Yes, I have.

10 THE COURT: Do you have any questions, either for me
11 or for Mr. Goldstein, about anything I've said or about
12 anything I've asked you?

13 THE DEFENDANT: No, thank you.

14 THE COURT: You may be seated.

15 Mr. Coffman, what are the elements of the offenses
16 and what is the government prepared to prove at trial in order
17 to establish those elements and the forfeiture allegation?

18 MR. COFFMAN: Your Honor, with respect to Count One,
19 conspiracy to commit wire fraud, the government would prove at
20 trial the following two elements beyond a reasonable doubt:

21 First, that there was an unlawful agreement between
22 two or more people; the unlawful objective of the agreement
23 being to commit wire fraud. And second that the defendant
24 knowingly and willfully entered into that agreement.

25 For Count One, the government would not have to prove

1 that the substantive crime of wire fraud was in fact committed,
2 but rather that it was the object of the conspiracy. But I
3 will set forth the elements of wire fraud not only because it's
4 the object of the offense in Count One, but because these are
5 the same elements that the government would prove beyond a
6 reasonable doubt with respect to the substantive wire fraud
7 offense count charged in Count Two.

8 First -- and there are three elements to the wire
9 fraud offense:

10 First, that the defendant executed a scheme or
11 artifice to defraud or to obtain money or property by
12 materially false pretenses, representations or promises;

13 Second, the defendant knowingly and willfully
14 participated in the scheme or artifice to defraud with
15 knowledge of its fraudulent nature and with specific intent to
16 defraud; and

17 Third, that there was the use of interstate wires in
18 furtherance of the fraud.

19 The government would also prove by a preponderance of
20 the evidence that venue in the Southern District of New York is
21 proper.

22 Your Honor, the government would prove at trial that
23 beginning in or about 2005 and continuing to April 2017, the
24 defendant willfully and knowingly conspired with others to
25 commit wire fraud and committed wire fraud. Specifically, the

1 government would prove that the defendant was the clinical
2 laboratory director of AMA Laboratories in Rockland County,
3 New York. AMA Laboratories tested the efficacy and safety of
4 cosmetics, sunscreens and other products on specified numbers
5 of volunteer panelists in exchange for fees paid by consumer
6 products companies.

7 From at least in or about 2005, through in or about
8 April 2017, the defendant and other employees of the
9 laboratory, tested products on materially lower numbers of
10 panelists than the number specified by the laboratory's
11 customers. The defendant and other laboratory employees then
12 falsely represented to the laboratory's customers that they had
13 tested the products on the numbers of panelists specified by
14 the laboratory's customers. The defendant and other laboratory
15 employees also made materially false and misleading statements
16 about the results of the tests to the laboratory's customers.

17 The defendant and other laboratory employees
18 initially sent the laboratory's reports containing the false
19 information to the laboratory's customers via interstate
20 facsimile, but during the later years sent them by email
21 communications, including interstate email communications.

22 The government's evidence, your Honor, would include
23 documentary evidence, including email communications with the
24 victims and fraudulent reports and panelist data that were
25 seized from the campus of AMA. It would include testimony from

1 other AMA employees regarding the practices I have just
2 specified. It would include testimony from victim companies
3 and it would include the defendant's statements.

4 The government's, as to venue, would include, among
5 other things, evidence that AMA and the defendant were
6 physically present and operated from New City, New York, in
7 Rockland County, in the Southern District of New York.

8 THE COURT: And with regard to the forfeiture
9 allegation, I think you said the total revenues of AMA during
10 this period of time were in excess of \$25 million?

11 MR. COFFMAN: That is correct, your Honor.

12 THE COURT: Thank you.

13 Ms. Tatsene, stand up.

14 Did you hear and understand what the Assistant United
15 States Attorney said?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand the elements of the
18 offenses to which you are offering a guilty plea?

19 THE DEFENDANT: Yes.

20 THE COURT: At this time, how do you wish to plead to
21 the charge of conspiracy to commit wire fraud as set forth in
22 Count One of the felony information?

23 How do you wish to plead?

24 THE DEFENDANT: I plead guilty.

25 THE COURT: How do you wish to plead to the charge of

1 wire fraud as charged in Count Two of the pending felony
2 information?

3 How do you wish to plead?

4 THE DEFENDANT: I plead guilty.

5 THE COURT: Do you wish to admit or deny the
6 forfeiture allegation?

7 THE DEFENDANT: To admit.

8 THE COURT: Has anyone threatened you or coerced you
9 or pressured you improperly in order to get you to plead guilty
10 to these charges and admit to this forfeiture allegation?

11 THE DEFENDANT: No.

12 THE COURT: Has anyone made any promises to you,
13 other than what is set forth in the plea agreement, in order to
14 induce you to plead guilty and to admit to this forfeiture
15 allegation?

16 THE DEFENDANT: No.

17 THE COURT: Has anyone made any specific promise to
18 you about what the sentence of the Court will be?

19 THE DEFENDANT: No.

20 THE COURT: Ms. Tatsene, tell me in your own words
21 what you did to commit these crimes.

22 THE DEFENDANT: Well, I was an employee and clinical
23 laboratory director of AMA Laboratories, a consumer products
24 testing laboratory in Rockland County, New York.

25 Our lab tested products, cosmetics, sunscreen and

1 data products on a number of volunteers who would receive their
2 fees paid by AMA.

3 I worked there from 2005 through April of 2017. I
4 was in charge of the Repeat Insult Patch Test laboratory, RIPT,
5 at AMA.

6 Testing of our products was to be done on a specific
7 number of volunteers. There came a time around 2006 where the
8 lab became so busy we didn't have enough volunteers to conduct
9 the tests and through conferences with my bosses, I was
10 directed to conduct the tests and submit the reports using less
11 volunteer panelists than customers paid for and sometimes by
12 not reviewing all of the slides.

13 I did so and submitted false reports as to the number
14 of volunteers or subjects to the tests. I knew these reports
15 would be relied upon just as the previous proper reports were
16 relied upon by the companies that have asked us to test their
17 products.

18 These reports were sent to customers, including
19 customers outside of New York by email communication.

20 THE COURT: Were some of the reports in the earlier
21 years also sent by fax communication?

22 THE DEFENDANT: Yes.

23 THE COURT: You said you were directed to do this. I
24 want to make sure that I understand you knew what you were
25 doing; is that correct?

1 THE DEFENDANT: Yes.

2 THE COURT: And you intentionally participated in the
3 scheme that you just described; is that correct?

4 THE DEFENDANT: Yes.

5 THE COURT: Did anyone force you to do it?

6 THE DEFENDANT: Well, it will just -- just this
7 situation.

8 MR. GOLDSTEIN: One moment, please.

9 THE COURT: Sure. Take your time.

10 (Pause)

11 MR. GOLDSTEIN: Yes, Judge, if you can repeat the
12 question.

13 THE COURT: Sure.

14 Did anyone force you to do what you did?

15 THE DEFENDANT: No.

16 THE COURT: All right. Do you agree that as a result
17 of what you have described, the information that was provided
18 to AMA's customers was materially false and misleading?

19 THE DEFENDANT: Yes.

20 THE COURT: Did you commit these acts knowingly and
21 willfully?

22 THE DEFENDANT: Yes.

23 THE COURT: Did you know it was against the law to do
24 what you were doing?

25 THE DEFENDANT: Yes.

1 THE COURT: Mr. Coffman, is there anything else which
2 the Court needs to elicit from the defendant before making the
3 recommendation contemplated by Rule 11?

4 MR. COFFMAN: No, your Honor.

5 THE COURT: Mr. Goldstein, any other inquiry?

6 MR. GOLDSTEIN: No, your Honor.

7 THE COURT: Mr. Goldstein, do you know of any reason
8 why the Court should not recommend acceptance of your client's
9 plea of guilty in this matter?

10 MR. GOLDSTEIN: I do not.

11 THE COURT: Mr. Coffman, is there any reason why the
12 Court should not recommend acceptance of the plea?

13 MR. COFFMAN: No, your Honor.

14 THE COURT: Ms. Tatsene, in light of everything that
15 has been said here today, including a statement of the charges
16 against you, the possible penalties you face and the rights you
17 are giving up, is it still your wish to plead guilty to the
18 charge of conspiracy to commit wire fraud and the charge of
19 wire fraud and to admit to the forfeiture allegation?

20 Is that your wish?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Upon this allocution, I find that Mayya
23 Tatsene is fully competent and capable of entering an informed
24 plea. The plea is knowing and voluntary and is supported by an
25 independent factual basis for each and every element of the

1 crimes charged.

2 Accordingly, I respectfully report and recommend to
3 Judge Briccetti that the plea be accepted and that the
4 defendant be adjudged guilty of the two offenses charged in the
5 felony information. I further report and recommend that the
6 defendant shall be deemed to have admitted the forfeiture
7 allegation with the appropriate amount to be determined if
8 necessary at a hearing.

9 I direct that a presentence investigation be
10 conducted by the United States Department of Probation.

11 Mr. Coffman, is there going to be a request to
12 adjourn the factual portion of the presentence report?

13 MR. COFFMAN: Almost certainly, your Honor.

14 THE COURT: All right. Nevertheless, I have to give
15 you the appropriate instruction, Mr. Goldstein.

16 You should go to the Department of Probation on the
17 ground floor of this building with your client.

18 Either today or on some other day that will be
19 scheduled, Ms. Tatsene, you are going to be interviewed by a
20 representative of the Department of Probation. That may not
21 take place right away, but whenever it happens, first of all,
22 you are entitled to have Mr. Goldstein present when you are
23 interviewed. You must be fully honest and truthful during that
24 interview because if it comes to the Court's attention that you
25 have provided false, incomplete or misleading information, that

1 may be held against you at the time of sentencing.

2 Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Absent a request to postpone it, the
5 interview must be scheduled to occur within 14 days, and again
6 absent a request to postpone, the prosecution case summary
7 would have to be submitted no later than 14 days from today.

8 I further direct the Clerk of the Court to provide a
9 transcript of these proceedings within 30 days, setting forth
10 my report and recommendation to Judge Briccetti. The
11 transcript is to come to me for review.

12 The matter is adjourned for sentencing,
13 September 5th, 2019, at 11:00 a.m. If you're going to be
14 requesting an adjournment of that, let Judge Briccetti's
15 chambers know sufficiently in advance of that date.

16 MR. COFFMAN: Yes, your Honor.

17 THE COURT: All right. Anything further,
18 Mr. Coffman?

19 MR. COFFMAN: No, thank you, your Honor, for the
20 time.

21 THE COURT: Mr. Goldstein.

22 MR. GOLDSTEIN: No, your Honor, thank you.

23 THE COURT: Thank you. We are adjourned.

24 (Proceedings concluded)

25 * * * * *

1 Certified to be a true and accurate
2 transcript of the digital electronic
3 recording to the best of my ability.

4 _____
5 U.S. District Court
6 Official Court Reporter